

EXHIBIT A

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS

3
4 UNITED STATES OF AMERICA,

5 Plaintiff,

6 v.

7 TANMAYA KABRA,

8 Defendant.
9

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)
) Criminal Action
) No. 1:19-mj-02257-MBB-1
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10
11 BEFORE THE HONORABLE MARIANNE B. BOWLER
12 UNITED STATES MAGISTRATE JUDGE

13 PROBABLE CAUSE AND DETENTION HEARING

14
15 August 7, 2019
16

17 John J. Moakley United States Courthouse
18 Courtroom No. 25
19 One Courthouse Way
20 Boston, Massachusetts 02210

21 Linda Walsh, RPR, CRR
22 Official Court Reporter
23 John J. Moakley United States Courthouse
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19 Proceedings recorded by sound recording and
20 produced by computer-aided stenography

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DAVID CIRILLI

By Mr. Looney

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1 P R O C E E D I N G S

2 (Recording begins at 2:31:07)

3 THE CLERK: United States District Court, the District
4 of Massachusetts, is now in session, the Honorable Marianne B.
5 Bowler presiding. Today is August the 7th, 2019, in the case
6 of *United States versus Kabra*, Magistrate Judge Action 19-2257,
7 which will now be heard.

8 Will counsel please identify themselves for the
9 record.

10 MR. LOONEY: Good afternoon. Chris Looney on behalf
11 of the Government.

12 THE COURT: Thank you very much.

13 MR. JOHNSON: And good afternoon, Your Honor. Greg
14 Johnson for Tanmaya Kabra.

15 THE COURT: Thank you very much.

16 Ready to proceed?

17 MR. LOONEY: Yes, Your Honor.

18 MR. JOHNSON: Yes, Your Honor.

19 THE COURT: All right.

20 MR. LOONEY: The Government calls FBI Special Agent
21 Dave Cirilli. He's right outside.

22 THE COURT: Would you please come -- bring him
23 forward.

24 MR. LOONEY: I'll bring him forward.

25 THE COURT: Could I just have a docket in this case?

1 I just -- the cover sheet, the first page is all I need. I'm
2 just looking for a spelling.

3 Would you please come forward and be sworn.

4 THE CLERK: Please raise your right hand.

5 (Witness sworn.)

6 THE WITNESS: I do.

7 THE COURT: I'll just ask you to speak up and speak
8 into the microphone, please.

9 THE WITNESS: Okay.

10 THE COURT: Proceed.

11 DAVID CIRILLI, having been duly sworn by the Clerk,
12 was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. LOONEY:

15 Q. I'll take the same admonition. I'm sometimes soft-spoken.

16 Would you state your name for the record and spell
17 your last name.

18 A. David Cirilli, C-i-r-i-l-l-i.

19 Q. Okay. Special Agent, what is your position? Who is your
20 employer?

21 A. I work at the FBI.

22 Q. And what is your role with the FBI?

23 A. A special agent.

24 Q. And what are your duties as a special agent with the FBI?

25 A. I work on a white collar criminal squad, and I investigate

1 white collar crimes such as wire fraud, mail fraud, securities
2 fraud.

3 Q. How long have you been working with the FBI?

4 A. Coming up on nine years.

5 Q. Are you familiar with an individual named Tanmaya Kabra?

6 A. Yes.

7 Q. When did you first become familiar with Mr. Kabra?

8 A. Last Sunday.

9 Q. And how did that happen?

10 A. He was arrested.

11 Q. And that's when you became familiar with him?

12 A. Yes.

13 Q. You weren't involved in the investigation prior to that?

14 A. I was not.

15 Q. What have you done to prepare for today's hearing?

16 A. I read the affidavit of Special Agent Kevin Sheahan, and I
17 discussed the case with him, have been briefed on it, and I've
18 seen some documents related to it.

19 Q. When did that preparation take place?

20 A. The past two days.

21 MR. LOONEY: May I approach the witness?

22 THE COURT: You may, and you need not ask again.

23 MR. LOONEY: I have one for the Court as well.

24 Q. Can you open that binder in front of you to the tab marked
25 as Exhibit 1. Do you recognize this document?

1 A. I do.

2 Q. What is it?

3 A. This is the affidavit, excuse me, of Special Agent Kevin
4 Sheahan.

5 Q. Did you review this affidavit?

6 A. I did.

7 Q. And did you discuss it with Special Agent Sheahan?

8 A. I did.

9 Q. Can you turn to the last page, and tell me whose signature
10 appears on that page.

11 A. Kevin Sheahan.

12 MR. LOONEY: I'd ask that Mr. Sheahan's affidavit be
13 admitted as Exhibit 1.

14 MR. JOHNSON: No objection, Your Honor.

15 THE COURT: Hearing no objection, it will be marked as
16 Exhibit 1 -- Government Exhibit 1 for the purpose of this
17 hearing.

18 (Government Exhibit 1 received in evidence.)

19 Q. Let's start by discussing Mr. Kabra's personal and family
20 history. During your preparation for this hearing, did you
21 learn where Mr. Kabra was born?

22 A. Yes.

23 Q. Where was that?

24 A. New Delhi, India.

25 Q. What citizenship status does Mr. Kabra hold?

1 A. He has a U.S. citizenship. He also has an overseas
2 citizenship status with India.

3 Q. Did you do anything to investigate or understand what that
4 means, having an overseas citizenship?

5 A. I did.

6 Q. What did you do?

7 A. I spoke with a member of the Department of Justice, Office
8 of International Affairs.

9 Q. What did you learn about what that status means or
10 confers?

11 A. We learned that it gives the holder of that free travel in
12 and out of India, and they can stay there permanently if they
13 choose.

14 Q. During your discussion with an individual from the
15 Department of Justice, did you discuss whether there was an
16 extradition treaty between India and the United States?

17 A. We did.

18 Q. Does such a treaty exist?

19 A. Yes.

20 Q. Did he give you information about how long it takes to
21 extradite an individual from India?

22 A. He did.

23 Q. What did he tell you about that?

24 A. He mentioned it was on average eight to nine years.

25 Q. Can it can take longer than that?

1 A. It can.

2 Q. Do you know if Mr. Kabra has family who lives in India?

3 A. He does.

4 Q. And how did you learn that?

5 A. His girlfriend said that to the investigators when -- on
6 the day of the arrest.

7 Q. And what did she tell investigators?

8 A. That they were traveling to London -- sorry.

9 Q. They -- who is "they," "they were traveling"?

10 A. Who was traveling?

11 Q. Yes.

12 A. Mr. Tanmaya here and his girlfriend.

13 Q. Okay. Where was he arrested?

14 A. He was arrested at the airport.

15 Q. Okay. And were these statements given by Mr. Kabra and
16 his girlfriend at the airport?

17 A. Repeat the question, please.

18 Q. Were the statements you were just offering made at the
19 airport at the time of his arrest?

20 A. Yes.

21 Q. What did she tell you -- what did she tell agents?

22 A. That they were traveling to London and then on to Italy
23 and that the elderly grandmother from India was going to be
24 meeting up with them.

25 Q. Whose elderly grandmother from India?

1 A. Tan's.

2 THE COURT: And the ultimate destination was India?

3 THE WITNESS: Italy.

4 THE COURT: Italy.

5 Q. Did he have a return trip ticket? Did he have a return
6 ticket for his travel?

7 A. His return was dated for August 16th, 2019.

8 Q. Up until the time of his arrest, do you know where
9 Mr. Kabra was living?

10 A. Yeah. He had an address in Weehawken, New Jersey.

11 Q. That was his last residence?

12 A. Yes.

13 Q. Do you know who owns that residence?

14 A. His parents.

15 Q. Have you reviewed any communications that were obtained
16 during this investigation to or from Mr. Kabra?

17 A. I have.

18 Q. What types?

19 A. E-mail and texts.

20 Q. Can you turn in your binder to the document behind Tab 2,
21 the document that's been marked as Exhibit 2. Are you there?

22 A. I am on Exhibit 2.

23 Q. Okay. Do you recognize this document?

24 A. I do.

25 Q. And what is it?

1 A. It's a text communication dated April 3rd -- it's a chain
2 of communications, April 3rd, 2018.

3 Q. Between whom?

4 A. This is between Mr. Kabra and an investor.

5 Q. One of the investors identified in Mr. Sheahan's
6 affidavit?

7 A. Yes.

8 Q. Okay.

9 THE COURT: Thank you.

10 MR. LOONEY: I'd ask that Exhibit 2 be admitted into
11 evidence.

12 MR. JOHNSON: Your Honor, I'd object with regard to
13 authentication, hearsay, with regard to how they obtained the
14 thread, so for those reasons I would ask it be excluded.

15 THE COURT: This is a detention hearing. The rules of
16 evidence are not strictly adhered to. I'll take it. It's
17 admitted as Government Exhibit 2 for the purpose of this
18 hearing.

19 (Government Exhibit 2 received in evidence.)

20 Q. And how did Government investigators obtain this document?

21 A. From the investor.

22 Q. Okay. When you look at this document, there are two
23 columns, correct?

24 A. Yes.

25 Q. Whose messages are on the left and whose are on the right?

1 A. On the left-hand side in the lightly colored text are from
2 Mr. Kabra, and on the right-hand side in a blue coloring is
3 from the investor.

4 Q. Okay. Can you tell about the relationship between this
5 investor and Mr. Kabra?

6 A. They have an investment relationship, and I also
7 understand this investor to have had an employee relationship,
8 a salaried employee with Mr. Kabra.

9 THE COURT: For the record, is this investor referred
10 to in the affidavit?

11 MR. LOONEY: Yes, Your Honor.

12 THE COURT: As investor by an initial?

13 MR. LOONEY: Yes, by initials, Investor A.

14 THE COURT: Okay.

15 Q. At some point in time did this investor invest \$250,000
16 with Mr. Kabra?

17 A. Yes.

18 Q. Has that not been repaid?

19 A. No.

20 Q. Can you read the first text message in this chain.

21 A. "So jealous about Paris."

22 Q. And who wrote that?

23 A. Mr. Kabra.

24 Q. And who wrote the following text message?

25 A. The investor responded.

1 Q. And how did the investor respond? Can you read through
2 his responses?

3 A. Yes. "I'm def think about Greece and Spain in June.
4 Loved. So jealous about Paris. Light, getting a new one
5 overnighted by tomorrow. Let me know when you wire. Grazie
6 mille."

7 THE COURT: Mille. Grazie mille.

8 THE WITNESS: Thank you.

9 A. "I need to transfer money while in France to an Italian
10 account."

11 Q. Did Mr. Kabra respond to that?

12 A. He did.

13 Q. What was his response?

14 A. "Offshoring your stuff?"

15 Q. And how did this investor respond?

16 A. "Have been doing a little of that but need to do repairs
17 to my house there before summer."

18 Q. And did Mr. Kabra respond to that?

19 A. He did.

20 Q. And what was his response?

21 A. "Bahamas" -- "Bahamas," excuse me, "or Mauritius?"

22 Q. And did -- was there an additional text?

23 A. There was an additional response of "My stuff is in
24 Mauritius."

25 Q. And that last response was a text from Mr. Kabra?

1 A. Yes.

2 Q. Can you turn in your binder to the document that is behind
3 Tab 3. Do you recognize this?

4 A. I do.

5 Q. What is it?

6 A. It's an additional text chain between the investor and
7 Mr. Kabra dated December 16th, 2018.

8 Q. Is it the same investor, Investor A?

9 A. It is.

10 MR. LOONEY: I'd ask that Exhibit 2 be moved into
11 evidence.

12 THE COURT: Hearing no objection?

13 MR. JOHNSON: Correct, Your Honor.

14 THE COURT: Government Exhibit 2 is --

15 THE CLERK: Government Exhibit 3.

16 MR. LOONEY: This is moved in as Government Exhibit 3.

17 THE COURT: 3, all right. Government Exhibit 3 is
18 made part of the record for the purpose of this hearing.

19 (Government Exhibit 3 received in evidence.)

20 Q. Can you just read through the text that's on the left-hand
21 side -- and those are from whom, the ones on the left-hand
22 side?

23 A. On the left-hand side is Mr. Kabra, and on the right-hand
24 side --

25 Q. Can you read through the text messages in the middle of

1 the page from Mr. Kabra starting with "Yeah."

2 A. "Yeah, man. You have no idea how badly I want/need this
3 to work. My outflow is 400K a month now. I'm down to my last
4 2M in the bank, that means five months. That's personal
5 savings, et cetera."

6 Q. You can stop there.

7 During your preparation for this hearing and your
8 review of records, did you identify any accounts associated
9 with Mr. Kabra, any bank accounts associated with Mr. Kabra
10 that held \$2 million at or around the time of this text message
11 chain?

12 A. We did not.

13 Q. What's the date of this text message chain?

14 A. December 16th, 2018.

15 Q. So you didn't identify any accounts associated with
16 Mr. Kabra that held \$2 million at or around December 16th,
17 2018?

18 A. We did not.

19 Q. Can you flip to the next exhibit in the binder, please.
20 Can you tell us -- do you recognize this document?

21 A. I do.

22 Q. Can you tell us what this is?

23 A. It's a bank statement from Brookline Bank.

24 Q. For what entity? Who is the account holder on this?

25 A. LaunchByte.io, LLC.

1 Q. And what time period is covered by this account?

2 A. December 11, 2018, through January 10th, 2019.

3 MR. LOONEY: I'd ask that exhibit -- that this
4 document be moved into evidence as Exhibit 4, please.

5 THE COURT: Hearing no objection?

6 MR. JOHNSON: No objection, Your Honor.

7 THE COURT: Government Exhibit 4 is admitted for the
8 purpose of this hearing.

9 (Government Exhibit 4 received in evidence.)

10 Q. I want to take a look at the transactions occurring in
11 this account on or around December 16, 2018, the same date as
12 the text messages we just looked at. Can you get there in this
13 statement? Which page are you looking at in the statement?

14 A. Page 2.

15 Q. According to this bank statement, how much money was in
16 this bank account on December 16th, 2018?

17 A. Approximately \$6,434.

18 Q. Okay. Do you see an entry on the middle of this page
19 dated December 13th -- December 13th, 2018, for a check, Check
20 Number 1139?

21 A. Yes.

22 Q. Okay. And that line on this statement shows a debit of
23 \$88,000 on that date; is that right?

24 A. Yes.

25 Q. Have you seen a check affiliated with that line item?

1 A. I have.

2 Q. Can you turn to Exhibit 5, please. Do you recognize this
3 document?

4 A. I do.

5 Q. Is this the check associated with that line item in the
6 bank statement?

7 A. It is.

8 Q. And how do you know that?

9 A. Check Number 1139 in the upper right-hand corner, the date
10 is 12/13/2018 for when it was deposited, and in the upper
11 left-hand corner it refers to LaunchByte.io, LLC.

12 Q. Is the amount of the dollar figure on this check that it's
13 drawn for the same as the line item on the bank statement?

14 A. Yes.

15 Q. Okay. Without using the individual's name, do you know to
16 whom this check was written?

17 A. I do.

18 Q. And what was the relationship between that person and
19 Mr. Kabra?

20 A. They were solicited to be an investor with Mr. Kabra.

21 Q. Did they actually invest with Mr. Kabra?

22 A. And they did.

23 Q. Did this check clear?

24 A. No.

25 Q. What happened to the check?

1 A. It was returned.

2 Q. And why was that?

3 A. It left the bank account in a negative position of
4 \$81,408.

5 Q. And that's reflected on -- back on Exhibit 4?

6 A. Yes, on Page 2.

7 Q. There's a line item "Return item of \$88,000"?

8 A. Yes.

9 Q. That's the reversal of this transaction?

10 A. Yes.

11 Q. So is it correct to say that at the same time he told one
12 investor he had \$2 million, he wrote a check to another
13 investor for \$88,000, and that check was returned for
14 insufficient funds?

15 A. Yes.

16 Q. Can you turn to the first page of that same document,
17 Exhibit 4, please.

18 What date does this bank statement cover?

19 A. The dates December 11th, 2018, through January 10, 2019.

20 Q. So a one-month period?

21 A. Yes.

22 Q. What is the total amount of credits that accrued into this
23 account over that one-month period?

24 A. Roughly \$573,000.

25 Q. And what is the total amount of debits that flowed out of

1 this account during that same period of time?

2 A. Roughly \$570,000.

3 Q. So roughly \$570,000 flowed into this account over that
4 one-month period?

5 A. Roughly \$573,000 went into the account, and roughly
6 \$570,000 went out of the account.

7 Q. I'm going to ask you to turn to Exhibit -- to the next
8 document behind Tab 6. Do you recognize this document?

9 A. I do.

10 Q. And was this a document that was obtained by investigators
11 during the course of the investigation?

12 A. Yes.

13 Q. And what is this document?

14 A. It's an e-mail.

15 Q. Okay. Can we go to the bottom of the last page of this
16 document to the first e-mail in the chain. Are you there?

17 A. I am.

18 Q. And who sent the first e-mail in this chain?

19 A. Mr. Kabra.

20 MR. LOONEY: I'd ask that this document be admitted as
21 Exhibit 6.

22 THE COURT: I think you didn't move on 5.

23 MR. LOONEY: Oh, I'd also ask that the document that
24 is behind Tab 5 be admitted as Exhibit 5.

25 MR. JOHNSON: No objection, Your Honor.

1 THE COURT: All right. Hearing no objection as to
2 both Government Exhibits 5 and 6, they'll be made part of the
3 record for the purpose of this hearing.

4 (Government Exhibits 5 and 6 received in evidence.)

5 Q. Staying at the first e-mail in this chain, what is the
6 date of that e-mail?

7 A. March 14, 2019.

8 Q. And it's an e-mail from Mr. Kabra?

9 A. Yes.

10 Q. And, again, without identifying the individual, can you
11 tell us to whom it was sent?

12 A. It's sent to a business address of a business banking
13 officer for Brookline.

14 Q. Okay. Can you read this e-mail?

15 A. "Saw you called me. I am at the Northwestern Mutual
16 office sorting out an issue with my brokerage account that has
17 caused the issue with Brookline Bank. Working on getting it
18 resolved ASAP and wiring in. The other check tomorrow should
19 also take care of it. Sorry and thanks. Best Tan Kabra,
20 founder and managing director of the LaunchByte Group."

21 Q. Do you know what the issue with Brookline Bank referred to
22 in that e-mail was?

23 A. Yes.

24 Q. What is it?

25 A. Money that was deposited in the account.

1 Q. A sum of money was deposited in the account.

2 Can I ask you to turn to Exhibit 7. Do you recognize
3 this document?

4 A. I do.

5 Q. And what is this document?

6 A. It's a bank statement for Brookline Bank.

7 Q. And what entity holds that account?

8 A. LaunchByte.io, LLC.

9 MR. LOONEY: I'd ask that Exhibit 7 be admitted into
10 evidence.

11 THE COURT: Hearing no objection, Government Exhibit 7
12 is made part of the record for the purpose of this hearing.

13 (Government Exhibit 7 received in evidence.)

14 Q. So starting at the first transaction identified on this
15 bank statement, what is that transaction?

16 A. It's a deposit of \$125,000.

17 Q. And what did that bring the balance in this account to?

18 A. \$124,885.

19 Q. And is it fair to say that from that point over -- and
20 what was the date of that first transaction?

21 A. March 11th, 2019.

22 Q. Is it fair to say over the next two days, March 11th and
23 March 12th, there were a series of debits from this account?

24 A. Yes.

25 Q. From this bank statement, can you determine what the

1 balance in this account was at the end of the day on March
2 12th, 2019?

3 A. It was \$675.

4 Q. And which page do you see that on?

5 A. Page 3.

6 Q. And that's at the close of business on March 12, 2019?

7 A. Yes.

8 Q. What's the next transaction that occurs in this account?

9 A. There's a chargeback.

10 Q. Of what amount?

11 A. \$124,300 -- excuse me, \$125,000.

12 Q. And is that a reversal of that first transaction we saw,
13 that deposit, the \$125,000?

14 A. It is. It is.

15 Q. Do you know what occurred that led to that reversal?

16 A. There were no funds from the offsetting bank that the
17 check was drawn on.

18 Q. So the check was written from a bank with no funds and
19 deposited in this account?

20 A. Correct.

21 Q. And is -- do you understand this to be the issue referred
22 to in that e-mail?

23 A. I do.

24 MR. LOONEY: I apologize. If I haven't moved Exhibit
25 7 into evidence, I ask that it be admitted.

1 THE COURT: You have.

2 MR. LOONEY: I have. Thank you.

3 Q. Can we turn now to Exhibit 8, please.

4 Do you recognize this document?

5 A. I do.

6 Q. And what is it?

7 A. Text communications with the bank officer at Brookline
8 Bank.

9 Q. Between whom and --

10 A. Between Tan and the bank officer.

11 Q. So this is a series of text exchanges between Mr. Kabra
12 and an employee of Brookline Bank?

13 A. Correct. Thank you.

14 Q. Is it the same employee that that e-mail was sent to?

15 A. Yes.

16 MR. LOONEY: I'd ask that Exhibit 8 be admitted into
17 evidence.

18 THE COURT: All right. Hearing no objection,
19 Government Exhibit 8 is made part of the record for the purpose
20 of this hearing.

21 (Government Exhibit 8 received in evidence.)

22 Q. Can you turn to the text messages dated Friday, March
23 15th, 8:17 a.m. Are you there?

24 A. Yes.

25 Q. And this is the day after Mr. Kabra's account at Brookline

1 Bank turned negative by \$124,000?

2 A. Yes.

3 Q. Can you read those -- the text messages on that date and
4 at 8:17 a.m.?

5 A. "Please follow up on this first thing. It cannot stay in
6 this status."

7 Q. And who sent that text?

8 A. The bank employee.

9 Q. Did Mr. Kabra respond?

10 A. He did.

11 Q. And what was his response?

12 A. "All set. My dad will send a wire from Singapore. Just
13 talked to him. Then I'll wire back once the check I'm
14 expecting comes in today or mon."

15 Q. Do you know if Brookline Bank received any such wire from
16 Singapore?

17 A. They have not.

18 Q. You mentioned at the start of your testimony that you
19 reviewed some bank records; is that right?

20 A. Yes.

21 Q. As preparation for this hearing?

22 A. Yes.

23 Q. Can you provide any information concerning the number of
24 bank accounts that have been used by Mr. Kabra since 2017?

25 A. I have seen at least six bank accounts.

1 Q. So he's used or had access to six banks since 2017?

2 A. Yes.

3 Q. Are they all with the same bank or with different banks?

4 A. Different banks.

5 Q. Are there multiple accounts at the same bank?

6 A. Yes.

7 Q. Can you provide information regarding the number of credit
8 card accounts?

9 THE COURT: Are those accounts still open?

10 THE WITNESS: I don't have the answer to that. I know
11 in at least one instance there's a closing -- there's a closed
12 account.

13 Q. Are you aware of some accounts that are still open?

14 A. I am.

15 Q. So there are some that are open and some that are closed?

16 A. Yes.

17 THE COURT: Do you have any -- can you specify by
18 number the open accounts?

19 THE WITNESS: I can't.

20 THE COURT: You can?

21 THE WITNESS: I can't recall.

22 THE COURT: You can't, all right.

23 BY MR. LOONEY:

24 Q. And just to be clear, when you said six bank accounts, do
25 you know whether that encompasses all the accounts used by

1 Mr. Kabra?

2 A. I don't.

3 Q. There can be other accounts?

4 A. Yes.

5 Q. Can you provide information concerning the number of
6 credit cards that Mr. Kabra has used or had access to since
7 2017?

8 A. In that same time frame there was at least six.

9 Q. Are they with the same issuer or different issuers?

10 A. Different.

11 Q. And do you know whether those are still open or closed?

12 A. I don't know.

13 Q. Focusing only on the investors who were identified in
14 Mr. Sheahan's affidavit, do you have any information about the
15 amount of money that had been invested with Mr. Kabra that has
16 not yet been repaid?

17 A. I do.

18 Q. And what is that?

19 A. It's over \$750,000.

20 Q. As of now, do you know whether members of the
21 investigation team have been able to trace all of that
22 \$750,000?

23 A. Not to my knowledge.

24 Q. Do you know whether there are additional potential victims
25 that have come forward or that have been identified?

1 A. I do.

2 Q. And how do you know that?

3 A. Phone calls have been coming in.

4 Q. Since when?

5 A. Yesterday.

6 Q. From your review of bank records associated with this
7 case, did you observe whether Mr. Kabra executed any wire
8 transfers overseas?

9 A. I did.

10 Q. Do you have any information about the size of those wire
11 transfers?

12 A. In some cases they were over \$5,000.

13 Q. Were there multiple such transfers?

14 A. There were.

15 Q. From your review of bank records associated with this
16 case, do you know whether Mr. Kabra has transferred money from
17 his personal bank accounts to business accounts associated with
18 LaunchByte or the Kabra Group or vice versa?

19 A. Yes.

20 Q. So such transfers have occurred?

21 A. I have seen that.

22 Q. Do you know whether funds provided by investors to
23 Mr. Kabra have been deposited into Mr. Kabra's personal
24 accounts?

25 A. Yes.

1 Q. That has occurred?

2 A. That has occurred.

3 Q. I'd ask you to turn now to Exhibit 8 in your binder, and
4 what is this document? Sorry. This is Exhibit 9. I
5 apologize.

6 A. Yeah, sorry. Exhibit 9 is a personal financial statement.

7 Q. Do you know how -- know how investigators obtained this
8 document?

9 A. Yes.

10 Q. And how was that?

11 A. From an investor.

12 Q. Do you know who provided it to that investor?

13 A. Mr. Kabra.

14 Q. Let's look at the information on here. Starting in the
15 upper left -- or actually, I'd ask first that Exhibit 8 be
16 admitted into evidence.

17 MR. JOHNSON: No objection, Your Honor.

18 THE COURT: 8 is in. Now this is 9.

19 MR. LOONEY: I apologize.

20 THE CLERK: Counsel, it's just two pages?

21 THE COURT: Government Exhibit 9 is admitted and made
22 part of the record for the purpose of this hearing.

23 MR. LOONEY: It's three pages. I'll provide it to
24 you.

25 THE CLERK: Thanks.

1 (Government Exhibit 9 received in evidence.)

2 Q. Starting at the section of this document marked as Part 1,
3 what is the name listed on this personal financial statement?

4 A. Tanmaya Kabra.

5 Q. And who is listed as the employer in this document?

6 A. LaunchByte.io, LLC.

7 Q. And what's the address associated with that business?

8 A. 715 Boylston Street, Suite 120.

9 Q. And what is Mr. Kabra's title identified as?

10 A. Chief executive officer.

11 Q. Moving to Section 2 of this document, the caption of that
12 is "Financial Information," correct?

13 A. Yes.

14 Q. And there's a section for annual income?

15 A. Yes.

16 Q. And there's a line item for salary?

17 A. Yes.

18 Q. What is the salary -- what is Mr. Kabra's salary according
19 to this document?

20 A. \$300,000.

21 Q. And, actually, I would like to pause and turn to the last
22 page. Do you know what the date of this document is?

23 A. It is signed by Mr. Kabra, December 20th, 2017.

24 Q. So the amount listed for his salary for that year is
25 \$300,000?

1 A. Yes.

2 Q. And what other income did he receive that year?

3 A. Bonuses and commissions of \$800,000, consulting income of
4 \$250,000.

5 Q. And so, according to this document, what is Mr. Kabra's
6 total income?

7 A. \$1.35 million.

8 Q. Going to "Assets," the first line item is cash and
9 savings. What amount of assets are identified in that line
10 item?

11 A. Cash and savings of \$100,000.

12 Q. Going to the next line item, "Marketable Securities," what
13 amount is identified for that line item?

14 A. Marketable securities is listed as crypto \$1 million.

15 Q. What are cryptocurrencies?

16 A. Cryptocurrencies are a virtual currency. They often use
17 blockchain technology for encryption and to remain anonymous.

18 Q. Are they easily traceable funds?

19 A. No.

20 Q. Do you know whether the investigation has identified any
21 accounts holding \$1 million in cryptocurrency associated with
22 Mr. Kabra?

23 A. I'm not aware of any.

24 Q. Skipping down to "Ownership Interest in Businesses," what
25 amount is listed there?

1 A. \$16,462,500.

2 Q. What is the next line item below that?

3 A. Profit-sharing and other vested retirement accounts for
4 \$700,000.

5 Q. Do you know whether the investigation has identified any
6 profit-sharing or vested retirement accounts held by Mr. Kabra
7 in the amount of \$700,000?

8 A. I am not aware of any.

9 Q. And what figure is listed as Mr. Kabra's total assets on
10 this form?

11 A. Total assets, \$19,762,500.

12 Q. And what is your understanding of what Mr. Kabra did with
13 this document?

14 A. He provided it to the investor in the context of telling
15 him he could guarantee his investment.

16 Q. I would like to look at one more set of documents. Can
17 you turn to the document marked as Exhibit 10 behind Tab 10.

18 And what is this document?

19 A. This is a bank statement from Santander.

20 Q. Okay. What is the entity that holds this account?

21 A. LaunchByte Ventures, LLC.

22 Q. And what period is covered by this bank statement?

23 A. July 1st, 2019, to July 31st, 2019.

24 MR. LOONEY: I'd ask that Exhibit 10 be admitted into
25 evidence.

1 MR. JOHNSON: No objection, Your Honor.

2 THE COURT: Thank you. Government Exhibit 10 is made
3 part of the record for the purpose of this hearing.

4 (Government Exhibit 10 received in evidence.)

5 Q. And this statement covers a period up until July 31st,
6 2019, right?

7 A. Yes.

8 Q. It's about a week ago?

9 A. Yes.

10 Q. Can you tell me what the balance was in this account as of
11 one week ago?

12 A. Negative \$31,609.

13 Q. Have you reviewed records of any transactions that
14 are -- transactions taking place in this account that occurred
15 after July 31st, 2019?

16 A. Yes.

17 Q. Can I ask you to turn to the next exhibit.

18 THE COURT: For the record, this would be Government
19 Exhibit 11?

20 MR. LOONEY: Yes, Your Honor. I'll move it in in just
21 one moment.

22 Q. What is this document?

23 A. It's an account inquiry for the Santander account that we
24 just looked at.

25 Q. Same account?

1 A. Same account.

2 Q. What period does it cover?

3 A. August 1st, 2019, to August 3rd, 2019.

4 Q. Okay. It's about four days ago?

5 A. Yes.

6 MR. LOONEY: I'd ask this document be moved in as
7 Government Exhibit 11.

8 MR. JOHNSON: No objection, Your Honor.

9 THE COURT: All right. It will be marked as
10 Government Exhibit 11 and admitted for the purpose of this
11 hearing and made part of the record.

12 (Government Exhibit 11 received in evidence.)

13 Q. And according to this bank -- this record of transactions,
14 what was the balance in the Santander account for LaunchByte
15 Ventures as of August 3rd, 2019?

16 A. Negative \$31,679.

17 Q. And that was last Saturday?

18 A. Yes.

19 Q. And when was Mr. Kabra arrested?

20 A. On Sunday.

21 Q. Where was he arrested?

22 A. At the airport.

23 Q. Where was he going?

24 A. London and then on to Italy.

25 Q. And what was the purpose of that?

1 A. Vacation.

2 Q. Was there any other special purpose?

3 A. He had mentioned that he planned to propose to his
4 girlfriend.

5 Q. Do you know if there was anything notable -- do you know
6 whether Mr. Kabra was carrying anything notable at the time he
7 was traveling?

8 A. He mentioned he had an expensive engagement ring in his
9 bag.

10 Q. Did he describe it or say why it was expensive?

11 A. He mentioned the quality and the clarity was high.

12 Q. So it was a large high-quality diamond?

13 A. Yes.

14 Q. And it was, according to him, very expensive?

15 A. Yes.

16 Q. Do you know where Mr. Kabra acquired that ring?

17 A. We do.

18 Q. How did you find out?

19 A. We spoke to the manager at Shreve, Crump & Low.

20 Q. How did you get in touch?

21 A. He called the FBI. He had been made aware of Mr. Kabra's
22 arrest and was worried.

23 Q. Following that complaint, did you learn how Mr. Kabra
24 acquired the ring?

25 A. He paid with a personal check for \$35,000.

1 Q. Written on what bank?

2 A. Santander.

3 Q. Okay. Do you know one way or the other whether it was the
4 same Santander account we were just looking at?

5 A. I don't know.

6 Q. You don't know. Do you have any information regarding
7 whether that check would clear?

8 A. We spoke with the manager. That was one of his concerns
9 initially when he called was whether the check would clear. We
10 spoke to him recently, as recently as today. We learned that
11 the ring was returned by the girlfriend.

12 Q. By whom?

13 A. The girlfriend of Mr. Kabra.

14 Q. Mr. Kabra's girlfriend?

15 A. Mr. Kabra's girlfriend.

16 Q. Did she give you any information or did she provide any
17 information to the jeweler regarding whether the check would
18 clear?

19 A. She said to him that the check was likely to bounce.

20 MR. LOONEY: Nothing further.

21 THE COURT: Cross-examination?

22 MR. JOHNSON: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. JOHNSON:

25 Q. Good afternoon, sir.

1 A. Good afternoon.

2 Q. So were you present when Mr. Kabra was arrested on Sunday?

3 A. I was not.

4 Q. And you learned of the arrest in the day after or that
5 evening?

6 A. I learned that there was an arrest that evening. I
7 learned about the details Tuesday. I was out on Monday.

8 Q. And that's when you began preparing for today's hearing;
9 is that correct?

10 A. Correct.

11 Q. You got up to speed by talking with Special Agent Sheahan;
12 is that accurate?

13 A. It is.

14 Q. So you played no role whatsoever in the actual
15 investigation of Mr. Kabra?

16 A. I did not.

17 Q. And met with the Assistant United States Attorney in order
18 to get ready for today's hearing?

19 A. Correct.

20 Q. And went over the information that you just testified to
21 today?

22 A. Correct.

23 Q. Now, you at no point were told by any of the agents or law
24 enforcement involved that Mr. Kabra put up any struggle when he
25 was arrested, were you?

1 A. No.

2 Q. And he was taken off of the airplane and taken into
3 custody and booked in the ordinary fashion; is that what you
4 would conclude from the fact that you didn't hear otherwise?

5 A. That's my understanding.

6 Q. Okay. And did he have any cash on his person when he was
7 arrested?

8 A. I don't know.

9 Q. Did you -- do you know if law enforcement ever documented
10 or was able to inspect the ring that you were just testifying
11 to?

12 A. I don't believe they did. I don't have a recollection of
13 that.

14 Q. And were you told that Mr. Kabra's United States passport
15 was seized by law enforcement when the arrest took place?

16 A. I'm aware of that.

17 Q. And were you also aware that there was a travel card
18 issued by India that was also seized by law enforcement?

19 A. I am aware of that.

20 Q. And were you told that law enforcement actually took that
21 card and ripped it into pieces?

22 A. I'm not aware of that.

23 Q. Now, you testified at the outset that Mr. Kabra had dual
24 citizenship; is that your testimony?

25 THE COURT: No, that was not the testimony.

1 Q. What was your testimony, if you could refresh our
2 recollection, regarding the dual nature?

3 A. Well, my understanding was that he's a U.S. citizen but he
4 also has overseas citizenship status with India.

5 Q. So citizenship status but not actually a dual citizen,
6 correct?

7 A. I'm not familiar with the technical response. That's the
8 response that I received.

9 Q. Special Agent, are you aware that India does not allow for
10 dual citizenship?

11 A. I am not aware of that.

12 Q. Now, you learned that he was born in New Delhi, India,
13 correct?

14 A. I did.

15 Q. And did you also learn that his family brought him to New
16 Jersey when he was about a year and a half old?

17 A. I'm not aware of that.

18 Q. And were you also aware of the fact that he spent about 80
19 percent of his life in the United States of America and not in
20 India?

21 A. I'm not aware of that.

22 Q. So you didn't review that with the Government in preparing
23 for today's hearing?

24 A. I did not.

25 Q. And do you know if Mr. Kabra -- do you know if any agents

1 reached out to Mr. Kabra prior to the arrest to attempt to
2 effectuate an interview of him?

3 A. I don't know.

4 Q. Do you know whether the girlfriend that you referenced in
5 your testimony was interviewed other than the fact that it took
6 place following the arrest?

7 A. Other than that, I don't know.

8 Q. So you are not aware of any statements made by either
9 individual in connection with the investigation?

10 A. Outside of those comments, no.

11 Q. Now, the bank accounts, I was a little fuzzy on your
12 knowledge as to the accounts that you were able to track that
13 are somehow connected with Mr. Kabra. Just to begin, so you
14 weren't involved with actually researching these accounts, were
15 you?

16 A. I was not.

17 Q. So all the information that's coming to you is we'll call
18 it secondhand, correct?

19 A. It was told to me and then I saw the underlying documents.

20 Q. Okay. And do you recall who the account holders were of
21 each of the six accounts?

22 A. Again, I looked at statements, so I saw a name on a
23 statement. For instance, Mr. Kabra's -- excuse me. I'm not
24 pronouncing his last name well enough -- on a statement or
25 LaunchByte.io, LLC or LaunchByte Ventures.

1 Q. So there were multiple different names that were utilized
2 in these specific accounts, correct?

3 A. From the statements I saw.

4 Q. All right. And as of the moment in time when you actually
5 reviewed these accounts, are you able to testify today as to
6 the approximate total balance of these six accounts?

7 A. Like I said, I have a recollection of one of them being
8 closed because they were in a negative status. I certainly saw
9 some low balances, but I can't put a specific number on it.

10 Q. Do you recall the highest dollar balance that you saw?

11 A. I cannot.

12 Q. And so I presume the closed account would have been the
13 Brookline Bank account that we -- the prosecution introduced
14 the statement from, correct?

15 A. I believe that is the account, yes.

16 Q. The one with a \$125,000 transaction that you testified to?

17 A. I believe that's the account, yes.

18 Q. And then another account, Exhibit 11, that's before the
19 Court, that shows a negative \$31,000 balance, correct?

20 A. It does.

21 Q. And do you know whether either of the other four accounts
22 show positive or negative balances?

23 A. I can't recollect.

24 Q. So you have no ability to testify today as to what access
25 to funds Mr. Kabra may have at this point in time?

1 A. Actually, I think I am aware that he told pretrial
2 services that he had \$65 in his personal bank account.

3 Q. Other than that \$65, do you have any knowledge that there
4 is additional monies that he has access to?

5 A. I don't know.

6 Q. Do you know if there is any -- you also testified about
7 overseas wire transfers. Do you remember those?

8 A. Yes.

9 Q. And where were they sent from?

10 A. I can't recall the exact account, which account it was.

11 Q. And do you know when they were sent?

12 A. The period that I was reviewing would have been 2018.

13 Q. So sometime during that calendar year?

14 A. Yes.

15 Q. Do you recall the approximate value of those transfers
16 that were sent?

17 A. As I mentioned, there was \$5,000, and then there were some
18 more than that.

19 Q. Were these transfers coming in from overseas or going out?

20 A. I saw them going out.

21 Q. Anything coming in?

22 A. I can't recollect.

23 Q. And you don't have the knowledge as to who might be on the
24 other end receiving those wire transfers, correct?

25 A. I don't know. I don't know.

1 Q. Did you see any international wire transfers during the
2 2019 calendar year?

3 A. Nothing specific is coming to my mind.

4 Q. This Exhibit Number 9, the Brookline Bank personal
5 financial statement, you're familiar with that document,
6 correct?

7 A. Yes.

8 Q. And that's dated December 20th, 2017, just reading from
9 the exhibit. That's accurate, correct?

10 A. Yes.

11 Q. And who is this document provided to?

12 A. An investor.

13 Q. Which one?

14 A. Investor C.

15 Q. And who is that person?

16 MR. LOONEY: I ask that -- objection -- not to use the
17 name of the victim.

18 THE COURT: Sustained.

19 Q. Do you know my client's relationship to that person?

20 A. I believe my recollection is he met them at a party.

21 Q. And so do you know why -- or strike that.

22 Did you or any other members of the investigative
23 team make efforts to look into the net worth that was put on
24 this personal financial statement back in the summer of 2017?

25 A. One more time, please.

1 MR. LOONEY: Objection. Not sure what it's asking
2 for.

3 THE COURT: You want to rephrase it?

4 MR. JOHNSON: Sure. I'll narrow it down, Your Honor.

5 Q. Did you look at, you or somebody from the FBI that
6 investigated this case, look into the amount of cash and
7 savings that Mr. Kabra had in December of 2017?

8 A. Not to my knowledge.

9 Q. What about the crypto, the marketable securities
10 cryptocurrency; did you investigate that currency in any
11 fashion?

12 A. I did not, and not to my knowledge for anybody else.

13 Q. And the ownership and interest in businesses, did you or
14 somebody else attempt to verify that dollar figure?

15 A. Not to my knowledge.

16 Q. The remaining two, the profit-sharing and then the
17 personal property?

18 A. Not to my knowledge.

19 Q. Does Mr. Kabra -- strike that.

20 And so Investor C provided this document to the
21 investigative team as part of the investigation, I presume?

22 A. Yes.

23 Q. And likewise, for Exhibit Number 8, the text messages that
24 were introduced?

25 MR. LOONEY: Objection. It's not clear that he's

1 suggesting that the same person provided both sets.

2 MR. JOHNSON: I can rephrase, if necessary, Your
3 Honor.

4 THE COURT: Just rephrase.

5 MR. JOHNSON: I'm sorry. I didn't hear the Court.

6 THE COURT: Just rephrase it.

7 MR. JOHNSON: Oh, understood. Thank you.

8 Q. Exhibit Number 8, which investor sent those messages to
9 the investigators?

10 MR. LOONEY: Objection. It technically wasn't sent by
11 an investor in the scheme.

12 Q. Do you know how the prosecution team obtained Exhibit
13 Number 8?

14 A. From the witness.

15 Q. And was that one of the investors?

16 A. This was not one of the investors.

17 Q. Was this one of the bankers?

18 A. This was one of the bankers.

19 Q. Now, Special Agent, did you or somebody from the FBI in
20 March of 2019, at the time of the \$125,000 transaction that was
21 discussed as it pertains to Exhibit Number 7, did you make any
22 efforts to look into any bank transactions outside of Brookline
23 Bank, if that makes sense?

24 MR. LOONEY: Objection. I think he's testified that
25 he's reviewed bank records and a number of bank records were

1 obtained in the investigation.

2 THE COURT: He may answer if he can.

3 A. Clarification, please.

4 Q. Did you see any transactions in that amount coming into
5 other banks?

6 A. On that day, March 11th?

7 Q. In March of 2019.

8 A. I don't have a recollection of that.

9 Q. Do you know whether there were any business deals or
10 contracts that were entered into by Mr. Kabra and a potential
11 investor in March of 2019 for that approximate dollar value?

12 A. I don't know.

13 Q. Other than referring to Exhibit 2, sir, other than the
14 text message that's about two thirds of the way down that page,
15 "My stuff is in Mauritius" that was allegedly sent by Tan
16 Kabra, did you or any other investigators attempt to perform
17 research or an investigation as to whether there was anything
18 in that country related to Mr. Kabra?

19 A. I'm not aware of any.

20 Q. And are you aware of any business dealings that he had
21 there?

22 A. I'm not.

23 Q. Or any relationships whatsoever that he had with anybody
24 in that country?

25 A. I'm not.

1 Q. What about other foreign countries, other than the
2 outgoing international wire transfers that you testified to;
3 you're not aware of any other business relationships overseas,
4 are you?

5 A. No.

6 Q. Other than the fact that Mr. Kabra's parents -- strike
7 that.

8 Let's go back to the trip that was supposed to start
9 on Sunday. You learned that there was in fact a return flight
10 that was planned, correct?

11 A. Yes.

12 Q. And the trip was supposed to go initially to London and
13 then on to Mulan; is that your memory?

14 A. That's my understanding.

15 Q. And you learned from the -- I believe you testified the
16 girlfriend is a person that told you that there was a
17 grandparent that was going to be meeting them in the U.K. at
18 some point?

19 A. They didn't tell me that -- she didn't tell me that,
20 excuse me, but that's been relayed to me.

21 Q. That was relayed to you from a different investigator,
22 correct?

23 A. Correct.

24 Q. Do you know where that grandparent resided?

25 A. My understanding was India.

1 Q. And was traveling from India to the U.K. to see her
2 grandson, correct?

3 A. I'm not sure where the stop was for the meet, but there
4 was going to be a meeting up.

5 Q. And you also testified earlier that the extradition
6 period -- or strike that. Let me withdraw the question.

7 Who told you about the eight- or nine-year wait for
8 getting somebody back from a foreign country?

9 MR. LOONEY: Objection, not a wait. He didn't testify
10 there was a waiting period or anything like that.

11 THE COURT: A waiting period.

12 MR. JOHNSON: That was my understanding of the
13 testimony, Your Honor. I don't think it's an unfair
14 characterization.

15 THE COURT: Yes, yes.

16 Q. Who told you that?

17 A. We spoke to a member of the Department of Justice.

18 Q. And located in India or in the United States?

19 A. I believe they were in the United States when we were
20 calling them.

21 Q. Who was this person?

22 A. I can't recall their name right now.

23 Q. So it was just somebody at the Department of Justice that
24 you called to inquire about --

25 A. It was a male.

1 Q. -- the history in terms of getting people back from India
2 that have outstanding warrants?

3 A. Well, they had dealt with India. So that was more their
4 responsibility, so that's why we called them. And, again, I
5 don't have the exact name of the person.

6 Q. Did they tell you whether the person would be held in
7 custody during that eight- or nine-year time period they would
8 take to get somebody back from there?

9 A. That wasn't discussed.

10 Q. Did they tell you -- I know you've already testified to
11 this, but they did confirm the extradition -- the extradition
12 treaty, correct?

13 A. Yes.

14 Q. And did you discuss with them if a person were to sign a
15 waiver of extradition, how that would affect the eight- or
16 nine-year waiting period?

17 A. We didn't discuss that.

18 Q. Do you know the last time that Mr. Kabra actually went to
19 India?

20 A. I can't recall.

21 Q. What about the last time he traveled internationally; do
22 you have any information about that?

23 A. The information I have is that in the past year he's had
24 16 overseas travels.

25 Q. And who told you that?

1 A. I looked at his passport.

2 Q. Okay. And do you know where those travels were to?

3 A. I can't say off the top of my head.

4 Q. And do you know the duration of each of those trips or the
5 purposes of those trips?

6 A. I cannot recite that.

7 Q. Do you know where Mr. Kabra's girlfriend's family resides,
8 sir?

9 A. I don't.

10 Q. Are you familiar with the fact that Mr. Kabra's family
11 actually owns real estate in the State of New Jersey?

12 A. My understanding is his parents live in Singapore and own
13 a home in this property in Weehawken.

14 Q. Are you aware that they spend at least a month at that
15 residence every single year, sir?

16 A. I'm not aware of that.

17 MR. JOHNSON: May I just have a brief moment, Your
18 Honor, to look through the exhibits?

19 THE COURT: Take your time.

20 (Pause.)

21 MR. JOHNSON: Nothing further, Your Honor.

22 Thank you very much.

23 THE COURT: Any redirect?

24 MR. LOONEY: Just very briefly to make one point.

25 REDIRECT EXAMINATION

1 BY MR. LOONEY:

2 Q. The first time you were involved in this investigation or
3 became aware of Mr. Kabra was in the last couple of days,
4 correct?

5 A. Yes.

6 Q. And you reviewed certain documents associated with the
7 investigation?

8 A. Correct.

9 Q. You have not reviewed all documents or materials obtained
10 in the course of the investigation?

11 A. I have not.

12 Q. So when you were asked questions about whether you knew
13 whether certain investigative steps have been taken or
14 information obtained, and you responded "I don't know," that
15 didn't mean it did occur or didn't occur?

16 A. Correct.

17 MR. LOONEY: Nothing further.

18 MR. JOHNSON: Nothing based on that.

19 THE COURT: All right. You may step down, Special
20 Agent Cirilli.

21 Further witnesses for the Government?

22 MR. LOONEY: No, Your Honor.

23 THE COURT: Witnesses for the Defendant?

24 MR. JOHNSON: No, Your Honor.

25 THE COURT: All right. I'll hear argument.

1 MR. LOONEY: There are just a few brief points I want
2 to make.

3 THE COURT: Probable cause and detention.

4 MR. LOONEY: Pardon me?

5 THE COURT: Probable cause and detention.

6 MR. LOONEY: I didn't understand that we were going
7 forward on probable cause today.

8 THE COURT: This is a probable cause and detention
9 hearing.

10 MR. LOONEY: Okay. Well, on probable cause, I rely on
11 the facts set forth in the affidavits submitted by Mr. Sheahan,
12 and what that demonstrates is, with respect to each of the
13 investors in his scheme, they were lured in with
14 representations that money would be used for purposes of
15 investments, for purposes of -- for purposes of investments and
16 legitimate business purposes.

17 Instead, what the affidavit demonstrates is that in
18 each instance, rather than doing so, he either spent the money
19 on personal property, if you look at the transactions involving
20 Investor A. He represented in a promissory note and text
21 messages and discussions that it's a legitimate business
22 opportunity. He took that money and he promptly wire
23 transferred it to a marine for -- a marina for purposes of
24 purchasing a boat. Investor B, this situation is -- and that
25 investor invested \$250,000 based on his representations. He's

1 not been repaid.

2 Investor B, the situation is similar, a similar set of
3 representations were made at almost the same time. The
4 investment by Investor B of \$100,000 was made at the same time.
5 That money was not used for any investment. It was not used
6 for any business opportunity. Instead it was used to pay off
7 existing debts. It was used to pay off existing debts and for
8 personal expenses.

9 Through the debt incurred in July of 2018, through the
10 latter half of that year, Mr. Kabra, as set forth in the
11 affidavit, again put off both investors, particularly Investor
12 B, promised him money. We introduced the check that was
13 written to Investor B for \$80,000. That check bounced. That's
14 evidence that he was stringing along this investor willing to
15 pay the amounts that were promised.

16 The way Mr. Kabra ultimately paid back Investor B, who
17 was paid back, was by luring another investor into his scheme.
18 That investor, Investor C, was lured in again, representations
19 by Mr. Kabra with Investor C. I just want to verify. Again,
20 he made a representation to Investor C regarding the
21 establishment of a new fund. He represented that he'd already
22 attracted investors into that fund. He represented that money
23 was being wired in for purposes of establishing that fund, all
24 of which was untrue. The money from Investor C was not used
25 for purposes of a new investment fund for some venture by

1 Mr. Kabra. Instead it was promptly used to pay off Investor B,
2 and then a third party, who provided money to Mr. Kabra, a wire
3 transfer with a notation, "Loan."

4 It all demonstrates that the representations about
5 legitimate business opportunities, made in e-mails, made in
6 text messages, via wires, were all false.

7 Investor C, his note is not due yet, but has not been
8 paid. The debt is outstanding, and there is no sense that he
9 will be repaid according to the loan representation we have
10 regarding the assets that Mr. Kabra has, is that he has \$65 in
11 his personal account, and we have virtually no information
12 regarding his business accounts and whether there is any money
13 to provide to investors like Investor C.

14 Investor D, a very similar situation. With Investor
15 D's case, he was a social acquaintance. They -- Investor D was
16 told that -- I just want to make sure I have my investors
17 straight. What Investor D was told was that one of the
18 portfolio companies in LaunchByte's portfolio of investments
19 was ready to be sold to a large well-known acquirer, and that
20 it just needed funding to essentially bridge that transaction.
21 That was not true. That company that was discussed, that
22 start-up company in the portfolio, that company did exist, but
23 it had never been any cost to acquire, there was no letter of
24 intent to acquire that company. There were false
25 representations. And, once again, that money was not used for

1 the purpose of the investment described by Mr. Kabra, and when
2 Investor D's note came due, the money that was used to repay
3 him was not from a legitimate business opportunity, nothing of
4 that sort. It was simply money from two more individuals, at
5 this point one of whom has contacted the United States
6 Attorney's Office -- or, rather, has contacted the SEC
7 following Mr. Kabra's arrest.

8 And for those last two investors, they're individuals
9 who in June of this year they deposited \$133,000 each into
10 Mr. Kabra's accounts. And, again, that money was promptly used
11 to pay off a prior investor. It was not used for a legitimate
12 investment opportunity. So that is the wire fraud scheme.
13 It's a repeated process where he receives funds, and they are
14 promptly wired out to repay prior investors, to make personal
15 purchases, lavish purchases.

16 The bank fraud scheme, it is simpler. You saw the
17 balance statement which shows what occurred in the Brookline
18 Bank, 3538 account. Mr. Kabra wrote a check from one account,
19 an account that had zero dollars in it, for \$125,000. He wrote
20 that check, executed it, deposited that money into Brookline
21 Bank, and then if you review the bank statement for that
22 account for that period of time, and it's Exhibit 7, what you
23 see are a series of debits. Money is wired out, \$20,000,
24 \$4,000, \$4,000, \$5,000, \$5,000, \$6,000, \$7,000, two checks
25 which were eventually returned for \$20,000 and \$29,000. The

1 money was not used for -- the money was wired out as soon as it
2 arrived, within a day of arriving at the bank, in the Brookline
3 Bank account, and then they -- the original deposit was
4 promptly reversed because there was no money in the original
5 account. It wasn't that it was overdrawn. It wasn't a math
6 error. There never had been any money in the account from
7 which he wrote the check, from which he drew the check. And he
8 used it simply to spend money that didn't exist, leaving
9 Brookline Bank holding the bag on the payments that had been
10 made, and that's the bank fraud scheme in summary.

11 THE COURT: All right. You want to move to detention?

12 MR. LOONEY: Yes. On detention, a few points I want
13 to make. The first just relates to the seriousness of these
14 charges. Wire fraud and bank fraud, they carry a maximum
15 penalty of 20 years and 30 years respectively. And in this
16 case, the evidence you heard is that there is upwards of
17 \$750,000 in unpaid debts just for the investors identified in
18 this complaint, and there is information to suggest that there
19 are further victims so that the loss amount will be higher,
20 suggesting a fairly significant sentence may be warranted in
21 the situation. So the seriousness of the offense militates in
22 favor of the detention hearing.

23 The second point I want to make is just about
24 Mr. Kabra's ties abroad. They're strong. He has parents who
25 live in Singapore. He has family who live in India, according

1 to the statements made by his girlfriend to agents at the time
2 of the arrest. They are close enough that they were meeting
3 there. He holds a quasi-citizenship status with India, which
4 allows him to travel freely into and out of the country and to
5 remain there indefinitely.

6 If he were to relocate to India, there would be very
7 little -- he has the means to do so, he has the connections,
8 and he would be virtually unattainable at that point in any
9 reasonable time. And you balance those against his ties to the
10 United States. He has lived here for the majority of his life,
11 but his family lives abroad. He has no familial ties here. He
12 owns no personal -- no real estate property here. He has ties
13 to a girlfriend. They've been together for two years. I do
14 understand that he was prepared to get engaged. I would also
15 make the point that he was prepared to get engaged with a ring
16 that was written -- that was purchased with a check that was
17 going to bounce. There is a certain seriousness to doing that
18 which undermines the claim of ties to the United States through
19 that route. So I think that the relative ties overseas versus
20 United States suggest that he is a meaningful and significant
21 flight risk.

22 The second point I'd make relates to the extent and
23 existence of financial resources overseas. And, as you heard,
24 there is tremendous unclarity regarding extent of assets, but
25 he has represented having assets overseas -- that is clear --

1 or having other virtually untraceable assets that he could
2 access overseas. He has represented that he has cryptocurrency
3 accounts worth \$1 million.

4 I take defense counsel questions about Mr. Kabra's
5 worth, and whether it had been verified, to attempt to
6 undermine the existence of that worth and to suggest that that
7 worth didn't exist. At best where that leaves Mr. Kabra is
8 that he was incredibly deceptive about the existence of assets
9 and the existence of his wealth. But at the same time, where
10 it's unclear if this wealth exists, there are many indicia of
11 his access to tremendous amounts of monies. We saw in one bank
12 statement \$500,000 plus flowed in, \$500,000 flowed out.
13 Another time he drew down and made transfers and payments of
14 \$125,000. He has received investor funds in hundreds and
15 hundreds of thousands of dollars, and they haven't been traced.
16 So he has -- he's represented having money in offshore
17 accounts, he's represented having money in virtually
18 untraceable accounts, and he represented he has tremendous
19 means. And it's unclear if that's true, but again, the best
20 case for him is that he has been incredibly deceptive about his
21 resources and disingenuous.

22 And there are also some indications that there does
23 exist real wealth abroad. He has family in Singapore who
24 appears to have the means to acquire a house in New Jersey that
25 they don't permanently live in, which suggests that there is

1 family wealth overseas, and that's a fact that we know. And,
2 again, just to make the point about his ability to obtain funds
3 or easily utilize funds in his affairs, at the time he was
4 exiting -- he was exiting, there was a \$30,000 negative balance
5 in a bank account but he had a \$35,000 ring, a highly
6 transferable fungible asset, and he was leaving the country
7 with it.

8 And so you couple the representations of wealth with
9 some indicators of wealth and the absolutely massive flow of
10 cash through his bank accounts suggest that there may be
11 resources outside the country consistent with what he has said,
12 his own representations.

13 And the flow of funds through his accounts, making the
14 last point, which is the nature of the offenses here and the
15 nature of the way he has used his bank accounts, the way he has
16 written checks that draw down his balance hundreds of
17 thousands -- or in excess of \$100,000 negative suggests a
18 flagrant disregard for financial commitments, a flagrant
19 disregard for honest dealing, and an entirely cavalier attitude
20 towards money and financial obligations.

21 He gets money from investors and uses it to pay credit
22 card debt. He gets it from investors and uses it to purchase a
23 boat. He uses it to pay off other debts, and he does this with
24 utter disregard to the commitments and promises he's made. So
25 the notion that some financial obligation or bond would secure

1 his presence at trial is just fully inconsistent with the
2 evidence, with the nature of the offenses, with the way he has
3 treated bank accounts.

4 And with particular response to the bond amount that
5 defense counsel suggests in their motion, they suggest \$50,000.
6 He will have to -- he left Brookline Bank holding the bag for
7 \$76,000. He was exiting the country with a negative balance of
8 \$30,000 and a ring purchased for \$35,000, likely with a bounced
9 check for another \$35,000. So the idea of \$50,000 providing
10 any sense -- semblance of collateral is really meaningless.

11 His dealings -- his financial dealings demonstrate
12 utter disregard to financial commitments, and so there's no
13 financial bond, amount of collateral that secures appearance
14 given the way he treats these obligations.

15 THE COURT: And am I not correct that he also faces a
16 civil suit at this time?

17 MR. LOONEY: He does. The SEC filed --

18 THE COURT: I found this only when I was looking for
19 the docket.

20 MR. LOONEY: Yes. The SEC filed a suit against him
21 with claims of securities fraud, and they have sought to freeze
22 his assets and enjoin any transfers.

23 THE COURT: Sought successfully, I think.

24 MR. LOONEY: They have obtained such an order. Again,
25 there is -- I would say with respect to that, there is a degree

1 of opaqueness regarding his financial status and the way he has
2 represented assets that we don't know whether they exist.

3 THE COURT: All right. Mr. Johnson?

4 MR. JOHNSON: Thanks, Your Honor.

5 THE COURT: You're welcome.

6 MR. JOHNSON: I'll start with probable cause, Your
7 Honor, briefly. With regard to the second charge, the bank
8 fraud charge, I would argue to the Court that the evidence in
9 the affidavit that was submitted is deficient in terms of the
10 knowledge aspect of that offense, proving that this individual
11 knew that there wasn't going to be sufficient funds in the
12 account. I can see that there was -- you know, the affidavit
13 states there was zero dollars in the account, but the picture
14 is a much larger one than that, which is part of the reason why
15 I questioned the special agent regarding his knowledge as to
16 other transactions or business dealings in the month of March
17 or around that particular time with regard to an amount of
18 money that may be coming in to LaunchByte or the Kabra Group or
19 Mr. Kabra's possession at that time. So I would suggest that
20 that particular charge would be deficient based on the
21 knowledge issue.

22 With regard to the money laundering, Your Honor, the
23 Commonwealth -- rather the prosecution has gone to great
24 lengths to take excerpts from the promissory notes that are
25 embedded in the complaint that was filed and was introduced I

1 believe as the first exhibit. The picture is incomplete. It
2 does not capture the entirety of the agreement between the
3 investors and my client. One misstep in terms of the
4 investigation and one thing that came up not only through the
5 agent's testimony but also the prosecution's argument is with
6 regard to Investor C. Investor C supposedly deposited \$250,000
7 or invested \$250,000 into the LaunchByte company. However, the
8 prosecution has failed to actually show the Court that the
9 payment or the investment or the maturity of that loan has come
10 due.

11 The first couple of investors, they talk about this
12 four-month time period where the loan was going to be taken and
13 then paid back with varying percentage returns. With regard to
14 Investor C, the deadline is still ongoing and it is not made
15 clear from the evidence that the loan is actually set to be
16 returned as of today's date or the date of the complaint,
17 rather. And I think that that goes to the deception and
18 whether the loan or the investment actually was criminal as
19 part of the wire fraud charge that my client potentially faces.

20 With regard to flight, Your Honor, you heard not only
21 the testimony from the special agent, but also I would rely on
22 my memo with regard to my client's background. He is 25 years
23 old. He has absolutely no criminal record. That goes to the
24 presumption that he is going to be returning to court. In
25 addition to being 25, conceding the fact that he was born in

1 New Delhi and did spend some time during his high school years
2 in Singapore, he has spent, by my math, about 80 percent of his
3 life in either New Jersey or Massachusetts.

4 He has been in Massachusetts from 2012 when he
5 enrolled in Babson, completed college in four years, obtained a
6 bachelor's degree in 2016 and then stayed in the Boston area,
7 which is before the Court in the presentence -- or the Pretrial
8 Services report with the various addresses that he has held in
9 the Boston area, and it wasn't until I believe June of 2019
10 that he temporarily relocated to Weehawken, New Jersey, which
11 is that apartment that I had questioned the agent about as to
12 my client's family's --

13 THE COURT: So when did he relocate to New Jersey?

14 MR. JOHNSON: So he had -- he was spending time in
15 Massachusetts and his parents' condo in Weehawken. He and
16 Ms. Tambone, his or was soon-to-be fiancé, had been spending
17 some time there as of June 1st of 2019, and that is a property
18 that is not leased or rented. It is owned by Mr. Kabra's
19 parents.

20 THE COURT: How much time was spent there?

21 MR. JOHNSON: Well, he's been there for many years
22 going back and forth to visit family.

23 THE COURT: Of the late, in the last six months, how
24 much time was spent in New Jersey?

25 MR. JOHNSON: If I could have a moment, Your Honor.

1 (Attorney Johnson confers with the Defendant.)

2 MR. JOHNSON: So over the course of the six months,
3 Your Honor, he was visiting New Jersey about two times per
4 month, and then in June, I believe June 15th or thereabouts of
5 this year, his lease on his most recent apartment in Boston
6 terminated, and so he and --

7 THE COURT: Where was that?

8 MR. JOHNSON: That was on Fairfield Street in Boston.
9 And he and Ms. Tambone were going between the apartment in
10 Weehawken and Ms. Tambone's parents' home in Wenham, which I
11 have detailed in the memorandum as to the location where my
12 client would reside if he were to be released by this Court;
13 and that is the home and the property where Ms. Tambone and her
14 family reside, and, as I stated, are willing to take my client
15 in. They are also here in the courtroom in support of him.
16 Over my right shoulder is Ms. Tambone's mother, Ms. Alma
17 Tambone, who you've heard about, her sister and one of her two
18 brothers, and they are all out here in support of Mr. Kabra.

19 So in addition to obviously the Tambone family, my
20 client has since 2012, particular since he enrolled in Babson,
21 created a network of individuals that he is close with and
22 friendly with and spends time with in the Boston area. I would
23 argue that his roots in this specific community are
24 substantial. There is the guarantee that has been offered to
25 the Court that he does have a roof over his head to potentially

1 go to in the State of Massachusetts.

2 Initially there was discussions about whether he'd be
3 living in New Jersey or Massachusetts, but in order to be as
4 close as possible to this Court, Mr. Kabra has made the
5 commitment, if given the opportunity, to go to that home.

6 He, upon his arrest, the passport was seized. What
7 has been represented to me is that that Indian card or the
8 travel permit that was testified to was disposed of by law
9 enforcement. He has no ability to get his hands on any travel
10 documents, whether it's a U.S. passport, and would agree to not
11 make any attempts obviously to reapply for a U.S. passport or
12 apply for any foreign travel certificate like the one you heard
13 about throughout the testimony.

14 I've also proposed to the Court that Mr. Kabra be
15 placed on GPS monitoring; that is recognizing the fact that he
16 is facing serious charges. The maximum penalties, as we know,
17 are significant, and there is a significant amount of money at
18 issue here. And I think the GPS would do a strong and a good
19 job of tethering him to the Commonwealth. Add a condition that
20 he's not allowed to leave the district, and also, in
21 recognition of the fact that his parents do live overseas.
22 They reside in Singapore. My client went to a private academy,
23 the Singapore American School in Singapore for his high school
24 years. From what I understand, it's a school --

25 THE COURT: What is their citizenship?

1 MR. JOHNSON: If I may, Your Honor.

2 (Attorney Johnson confers with the Defendant.)

3 MR. JOHNSON: His mother naturalized at the same time
4 that my client did, in roughly 2009. His father is a permanent
5 resident of this country and also a citizen of India, and his
6 brother, who's 14 years old, is a United States citizen born in
7 this country, Your Honor.

8 So, Your Honor, I understand, and Mr. Kabra
9 understands, the severity of the allegations that he's facing.
10 And the affidavit certainly spells out a significant amount of
11 money that was coming to him. However, I think that the
12 evidence clearly contradicts that he has much access, if any,
13 to funds. The Santander account that we heard about, the last
14 exhibit that was introduced, shows a negative balance of
15 \$30,000.

16 I asked the special agent on cross-examination about
17 the existence of funds in the four other checking accounts that
18 we had heard about, and he was unable to give any information
19 as to any significant funds that were held in those accounts.
20 Likewise, for the investigation that was performed into my
21 client's net worth whether there were any overseas assets.
22 There simply is nothing other than a text message that dates
23 back to, if I may, April 3rd of 2018, and nothing since then to
24 reflect any assets anywhere outside of this country. For all
25 we know, my client is in significant debt, has no ability to

1 reach any funds quickly, and the Government can only argue that
2 because he has a family that's located in Singapore, parents
3 that are in Singapore that also own property in New Jersey,
4 that that shows an ability to quickly access funds. I would
5 argue that it does not, that my client, as a 25-year-old young
6 man, I think the evidence only shows that he is in the hole, to
7 say the least, and cannot go anywhere quickly.

8 If you add the conditions that I'm proposing in terms
9 of the GPS, the surrender of the passport, which has already
10 taken place, with family willing to take him in, willing to
11 supervise him, willing to report to Pretrial Services, and also
12 the fact that Pretrial Services did conduct their investigation
13 this morning, wrote the report and crafted a series of
14 conditions that would ensure my client's return to Court, I
15 would ask that Your Honor grant his release. I would argue the
16 Government has not met its burden of showing that he is a
17 flight risk, and I would ask that my motion and the proposed
18 conditions be allowed.

19 THE COURT: All right. At this time -- do you want a
20 brief response?

21 MR. LOONEY: Very brief, Your Honor, just on a couple
22 of points. With regard to the bank fraud charge, there is a
23 suggestion that it was a mix-up, that there was money coming in
24 and it just didn't all click on time. But the facts there are
25 that he was aware of the text messages, the e-mails show he was

1 aware of the negative balance immediately, and, as set forth in
2 the affidavit, for several months later that balance persisted
3 and it was closed with a negative balance of in excess of
4 \$70,000. It wasn't a mix-up. And the check was written from
5 an account that had zero dollars and never had anything other
6 than zero dollars in it.

7 Defense counsel also suggested that the snippets from
8 the promissory notes don't capture the extent of the
9 agreements, but it's clear in each case that investors were
10 told that the money would be used for legitimate investments,
11 and they were used for other purposes. And then, for example,
12 Investor C, he suggests that the maturity date hasn't occurred.
13 That's the nature of a Ponzi scheme is that -- we're not
14 required to wait for it to collapse before charging fraud.
15 He's using funds for other than what he represented he would
16 use the funds for, and that's the nature of that fraud. We
17 don't have to allow him to keep attracting new investors and
18 keep his flow of money going until it collapses of its own
19 weight.

20 And then just briefly with regard to detention, I
21 don't think anything -- well, I don't think anything has
22 ameliorated the essential problem, which is there is this
23 opaqueness about the extent of funds, and he suggested that
24 there was just a transparent lack of funds, and that is true
25 except for the fact that his parents own an apartment in

1 Weehawken. We have no information about -- they live abroad
2 but own a house in Weehawken. We have no information about the
3 extent of their resources. We know about the existence of
4 massive flows of cash through his accounts, \$500,000 in a
5 single month and his own representations.

6 And counsel's suggestion is that you should just
7 disregard what he said, and these weren't off-the-cuff things.
8 They were put in a personal financial statement that he
9 supplied to an investor. That investor invested in December of
10 2018. That is not stale information. That was a statement
11 provided to an investor to induce an investment eight months
12 ago, and where he represented he had \$19 million in wealth and
13 \$1 million in cryptocurrency. So I'd suggest he poses a
14 genuine flight risk.

15 THE COURT: All right. At this time I make a finding
16 that there's probable cause to believe that the Defendant has
17 committed the crimes as charged in the criminal complaint, and
18 I'll take the matter of detention under advisement.

19 The Defendant is remanded to the custody of the United
20 States Marshal Service.

21 We stand in recess.

22 (Recording ends at 3:54:25)
23
24
25

1 CERTIFICATE OF OFFICIAL REPORTER

2
3 I, Linda Walsh, Registered Professional Reporter
4 and Certified Realtime Reporter, in and for the United States
5 District Court for the District of Massachusetts, do hereby
6 certify that the foregoing transcript is a true and correct
7 transcript of the stenographically reported proceedings held in
8 the above-entitled matter to the best of my skill and ability.

9 Dated this 26th day of August, 2019.

10
11
12 /s/ Linda Walsh

13 Linda Walsh, RPR, CRR

14 Official Court Reporter
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